

**IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

DO NO HARM, a nonprofit corporation
incorporated in the State of Virginia,
Plaintiff,

v.

WILLIAM LEE, in his official capacity as
Governor of the State of Tennessee,
Defendant.

No. 3:23-cv-01175

**JUDGE CAMPBELL
MAGISTRATE JUDGE HOLMES**

**PROPOSED MODIFIED
CASE MANAGEMENT ORDER**

A. DISCOVERY: No written discovery has yet been served in the case, as the parties have chosen to postpone discovery pending the resolution of the motion to dismiss. The standing questions raised in Defendants' motion to dismiss are based in law and not in disputed facts, and therefore discovery would not aid in their resolution.

B. PROSPECT FOR SETTLEMENT: On July 31, 2024, the parties again discussed the current posture of the case and whether there were any new considerations that would have altered the parties' previously stated positions on Article III standing and liability—none exist at this time. The parties continue to disagree on these issues and were unable to reach a settlement. It is for this reason that ADR is unlikely to aid the parties in resolving the outstanding issues in this lawsuit.

C. SCHEDULING OF RESERVED CASE MANAGEMENT DEADLINES: The deadline for the parties to complete all written discovery and depose all fact witnesses is presently reserved. Both parties agree that written discovery should proceed after resolution of the State's pending motion to dismiss. Once the Court rules on the motion, the parties will meet to confer to determine this deadline as well as the deadline to bring all discovery disputes to the Court's attention, disclosure of experts and expert reports, completion of expert depositions, filing the second joint case status report, and the deadline to amend or add parties.

D. ESTIMATED TRIAL TIME AND TARGET TRIAL DATE: The bench trial of this action is expected to last approximately 1 day. A trial date no earlier than October 1, 2025 is respectfully requested.

It is so **ORDERED**.

BARBARA D. HOLMES
United States Magistrate Judge

APPROVED FOR ENTRY:

/s/ Laura D'Agostino
Laura D'Agostino, Va. Bar No. 91556*
PACIFIC LEGAL FOUNDATION
3100 Clarendon Boulevard, Suite 1000
Arlington, VA 22201,
(202) 888-6881
LDAgostino@pacificlegal.org
Attorney for Plaintiff
*Pro Hac Vice

/s/ Reed N. Smith
Reed N. Smith (#040059)
Tennessee Attorney General's Office
P.O. Box 20207
Nashville, Tennessee 37202
(615) 741-3491
Reed.Smith@ag.tn.gov
Attorney for Defendant